IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 3876 of 1998

Between:

Nakka Yadagiri S/o late.Sri Venkataswamy, Occ: Agriculture & Business,
R/o Malakpet, Hyderabad.

..... PETITIONER

AND

1. The Andhra Pradesh State Electricity Board rep.by its Secretary, Vidyuth Soudha, Somajigunda, Hyderabad.
2. The Chief Engineer, Electricity Metropolitan zone, APSEB, Mint Compound, Hyderabad.
3. The Superintending Engineer (Assessment), APSEB, Dwarakapuri colony, Punjagutta, Hyderabad.
4. The Assistant Divisional Engineer, DPE, Medak.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or a direction or a writ more particularly a writ in the nature of mandamus declaring the order of the second respondent made in CEE:MZ:HYD:SMRT:FPA:D.No.2597/97 dated 29.11.1997 of the Chief Engineer Assessment, APSEB, Hyderabad, the first respondent herein dismissing the appeal filed by the petitioner and confirming the orders in SCA/HYD/PCC 676/SAT 5445 dated 28.11.1995 of the Superintending Engineer Assessments, APSEB, Hyderabad the third respondent fixing the presumptive and assumptive compensation for the alleged reasons of pilferage of energy to the consumer connection of the petitioner in SC No.Pe-430, Anandnagar, Malakpet, Hyderabad-36

as illegal, arbitrary and violative of the principles of natural justice.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard both sides.

The petitioner, who is running a rice mill, seeks to assail the impugned proceedings of provisional assessment and also the final assessment made on 28.11.1995 and 29.11.1997 respectively.

The case of the petitioner is that in an inspection conducted on 27.03.1993, on the allegation that certain irregularities were found in regard to the meter box, it was complained that the petitioner pilfering the energy and therefore the provisional assessment was made at Rs.53,235/-. On appeal, the same was confirmed. Subsequently, though the petitioner filed his explanation on 25.08.1994, the same was not taken into consideration. Hence, the writ petition.

Even though several contentions are sought to be urged on behalf of the petitioner, however, it is to be seen that both the authorities, namely, at the provisional assessment stage and also at the final assessment stage, it was found that there was pilferage of energy by the petitioner which is a finding of fact and the same cannot be gone into under Article 226 of the Constitution of India. Further, it is pointed out that out of the total amount demanded, the petitioner has already deposited 50%.

By taking into consideration the fact that the inspection was

conducted as long back as on 27.03.1993 and the petitioner has already deposited 50% of the amount demanded, it would suffice in the interest of justice to reduce the assessment amount to 75% since such assessments are always more on higher side and based on rough work.

In the circumstances, the writ petition is allowed in part reducing the total assessment i.e., Rs.53,235/- by 25%. No costs.

It is needless to mention that any amount deposited by the petitioner in the meantime shall be given credit to.

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16.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Sixteenth Day of December, Two Thousand and Four.

To

1. The Secretary, Andhra Pradesh State Electricity Board, Vidyuth Soudha, Somajigunda, Hyderabad.
2. The Chief Engineer, Electricity Metropolitan zone, APSEB, Mint Compound, Hyderabad.
3. The Superintending Engineer (Assessment), APSEB, Dwarakapuri colony, Punjagutta, Hyderabad.
4. The Assistant Divisional Engineer, DPE, Medak.
5. 2 CD copies.